IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 423 of 2007

PRAYAG

V/S

L/R OF BANKAT LAL & ORS.

Mr. ML PANWAR, for the appellant / petitioner

Date of Order : 19.2.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner.

The sole plaintiff died, and application was filed for substitution of his legal representatives wherein the widow alone was shown to be the legal representative. To this a reply was filed giving out that the deceased had three more daughters who had not been impleaded as party, their names were given, and it was pleaded that in that view of the matter, the application be dismissed. Thereafter an application was filed on behalf of the daughters submitting that Vakalatnama is being filed on their behalf and a consent letter is also being filed. The consent letter is to the effect that they nominate their mother alone to be the person to continue the litigation with their consent. However, the learned trial court by the impugned order has directed that all the representatives

should be impleaded as party in the litigation, and therefore, directed the plaintiff to submit the amended plaint disclosing the names of all the legal representatives.

The contention of the learned counsel for the petitioner is that without giving notice to the legal representatives, this type of order could not have been made, and for that purpose reliance is placed on the judgment of this Court in Badar Hussain Vs. Gulam Hussain reported in 2006(2) CCC-266 (Raj.).

I have considered the submission, and have gone through the judgment in Badar Hussain's case. The facts of that case are entirely different inasmuch as in that case there was a controversy between the plaintiff, and the defendant who were related to each other, and the circumstances of that case did require notice to be issued to the legal representatives. In the present case all the other legal representatives disclosed by the petitioner have already given their consent, and that apart even the learned trial court has directed them to be impleaded as parties, and has directed the plaintiff to file amended plaint. If the impugned order is allowed to stand it would not occasion any substantial failure of justice to the petitioner irrespective of the fact that taking hyper-technical view this order might be suffering here and there.

The writ petition is, therefore, dismissed summarily.

(N P GUPTA),J.

/Sushil/